

PUBLIC UTILITIES COMMISSION  
505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3298



March 11, 2013

Draft Resolution W-4946  
Agenda ID #11995

TO: All Interested Persons

Enclosed is draft Resolution W-4946 of the Division of Water and Audits approving a request by Cypress Ridge Sewer Company's request for an expense offset for labor costs. The Commission may act then on this resolution or it may postpone action until later.

When the Commission acts on a draft resolution, the Commission may adopt all or part of the draft resolution, as written, or amend or modify the draft resolution; or the Commission may set the draft resolution aside and prepare a different resolution. Only when the Commission acts does the resolution become binding.

Interested persons may submit comments on this proposed Resolution W-4946. An original of the comments with a certificate of service, should be submitted to:

Division of Water and Audits, Third Floor  
Attention: Albert Schiff  
California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102

Division of Water and Audits, Third Floor  
Attention: Rami Kahlon  
California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102

Interested persons must serve a written or electronic copy of their comments on the utility on the same date that the comments are submitted to the Division of Water and Audits. Interested persons may submit comments on or before April 2, 2013. The date of submission is the date the comments are received.

Comments should focus on factual, legal, or technical errors or policy issues in the draft resolution.

Persons interested in receiving comments submitted to the Division of Water and Audits may write to Albert Schiff, email him at [aas@cpuc.ca.gov](mailto:aas@cpuc.ca.gov), or telephone him at (415) 703-2144.

/s/ RAMI S. KAHLON  
Rami S. Kahlon, Director  
Division of Water and Audits

Enclosures: Draft Resolution W-4946  
Certificate of Service  
Service List



**PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

DIVISION OF WATER AND AUDITS

Water &amp; Sewer Advisory Branch

RESOLUTION NO. W-4946

April 18, 2013

**R E S O L U T I O N**

**(RES. W-4946), CYPRESS RIDGE SEWER COMPANY (Cypress).  
ORDER AUTHORIZING A SURCHARGE OF \$8.87 PER MONTH OVER  
A 36-MONTH PERIOD TO RECOVER LABOR COSTS FOR A TOTAL  
OF \$119,749 OR 9.0% INCREASE IN GROSS ANNUAL REVENUE.**

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**SUMMARY**

By Advice Letter 16-SS dated August 9, 2011, Cypress Ridge Sewer Company requested the following: (a) an expense offset rate increase of \$146,969 through a surcharge of \$32.66 per month, or a 31.6% annual revenue increase over a 12-month period, plus interest at the 90-day commercial paper rate, to cover additional labor costs incurred in 2009 and 2010, and (b) a change in rates for future labor costs.

Cypress Ridge Sewer Company subsequently filed a supplement Advice Letter 16-SS-A, which the Division of Water and Audits (Division) received on September 15, 2011. In the supplement, Cypress Ridge Sewer Company retracted the request for a change in rates for future labor costs.

This resolution grants a total expense offset revenue increase of \$119,749 or a 9.0% increase in annual revenue through a surcharge of \$8.87 per month over a 36-month period plus allowance for interest at the 90-day commercial paper rate.<sup>1</sup> The difference from the requested amount is due to disallowance of excessive supervisor's pay. This revenue increase will not result in a rate of margin greater than last authorized for Cypress.

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<sup>1</sup> Per Standard Practice U-27-W (August 2009) paragraph 30 which allows memo account balances to earn interest at the 90-day commercial paper rate. Also see application of this interest in Res. W-4865, Dunnigan Water Works Surcharge Authorization, January 13, 2011.

## **BACKGROUND**

Cypress Ridge Sewer Company (Cypress) is a Class D sewer utility which serves 367 residential and 8 commercial sewer customers in its service area near the town of Arroyo Grande, in San Luis Obispo County. The majority of customers are full-time residents, being a mixture of retired or working individuals. Cypress' present rates were established on April 2, 2012, by approval of Advice Letter (AL)-17-SS, which authorized a Consumer Price Index increase of \$13,433, or 3.0% in gross annual revenues.

The last general rate increase (GRC) for Cypress became effective on November 20, 2009, by Resolution (Res.) W-4795, which approved a \$98,628 or 29.8% increase in gross annual revenues with a rate of margin (ROM) of 20%.

The issue to be addressed here is whether a water utility should be allowed to recover costs, which were authorized to be recorded in a special memorandum account, but were recorded in a different memorandum account.

In the Cypress GRC, Res. W-4795, dated November 20, 2009, Ordering Paragraph (OP) 5 stated:

“Cypress Ridge Sewer Company is authorized to establish a memorandum account to post employee labor expenses exceeding \$120,000 annually and is allowed to apply for approval and collection of accumulated excesses.”

Cypress failed to subsequently ask for permission to establish the excess labor memorandum account and had been recording these expenses in their regular labor account.

Cypress filed an advice letter to establish the special memorandum account and collect expenses from it in AL-12-SS on March 23, 2010. However, Cypress had to withdraw that AL because Res. W-4795 required that recovery of the excess employee labor expenses could not be requested until after it had achieved normalcy. Achieving normalcy meant that the California Regional Water Quality Control Board (RWQCB) Cleanup and Abatement Order No. R3-2008-0022 issued on January 24, 2008, had to be rescinded first. Details of the RWQCB Clean Up and Abatement Order are contained in Appendix D. The Cleanup and Abatement Order

was subsequently rescinded by RWQCB on May 19, 2011. Therefore, the plant is now considered by RWQCB to have returned to normalcy.

In AL 16-SS-A, Cypress requested a labor expense offset of \$146,969 to be collected via a surcharge over a 12-month period. The \$146,969 amount was for the labor expense Cypress incurred in excess of \$120,000 for all of 2009 plus the labor expenses Cypress incurred in excess of \$120,000 for 2010.

### **NOTICE AND PROTESTS**

Cypress mailed AL 16-SS on August 18, 2011 and AL 16-SS-A on September 15, 2011 to all ratepayers, adjacent utilities and persons on the general service list. Service of these notices complied with General Order 96-B. The Division received protests from the Cypress Ridge Owners' Association (CROA) for each AL. In addition, four individuals sent protest letters to the Division, which requested that no increase be allowed. Cypress responded to all these protests. An itemized review of the CROA protests is included in the Discussion below.

### **DISCUSSION**

Normally, a utility would not be allowed to recover costs that it failed to record in an appropriate memorandum account. However, in this instance, allowing Cypress to recover costs that were reasonably incurred is a fair outcome and consistent with Commission precedent.

The facts underlying Cypress' request are similar to those addressed by the Commission for the Lake Forest Water Company (Lake Forest), in Res. W-4815, adopted on February 4, 2010. In that resolution, the Commission allowed the recovery of certain authorized costs where the utility had failed to properly request the establishment of a memorandum account to book the costs. The Commission stated:

"Accordingly, the Commission is faced with the question of how to handle reasonable and necessary expenses that were authorized to be included in a memorandum account where (i) the utility has not established the memorandum account or (ii) the memorandum account established by the

utility does not cover all of the expenses authorized to be included in such a memorandum account, thereby failing to cover the expenses at issue.”<sup>2</sup>

The Commission concluded that: (i) general ratemaking was not implicated, as the memorandum account at issue was intended to track only limited classes of expenses, and (ii) it would be unjust under the following circumstances to deny recovery of these necessary expenses.<sup>3</sup>

1. Lake Forest is a small, regulated water utility.
2. Small companies such as Lake Forest are often not sophisticated in complying with regulatory procedures.
3. Lake Forest was authorized to create a memorandum account to cover a limited class of expenses.
4. Lake Forest failed to ask for permission to create the special memorandum account that was authorized.
5. Lake Forest incurred necessary expenses properly included in the kind of memorandum account that was authorized.
6. The expenses at issue were large in relation to the Lake Forest’s overall revenue requirement.

The Commission concluded in Lake Forest that allowing recovery where all these circumstances are present would not constitute impermissible retroactive ratemaking. Similarly, Cypress is a small company and failed to make a request to recover costs that were previously authorized. Given the presence of the same six factors in this request, it is fair to treat Cypress in the same manner as Lake Forest. We should, therefore, not deny recovery of the excess labor expenses in the amounts discussed below because Cypress did not file an advice letter to create a special memorandum account.

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<sup>2</sup> Res. W-4815, page 4.

<sup>3</sup> See, Res. W-4815, pp.4-5.

## **Analysis of Cypress Labor Costs**

The following describes the activity by Cypress, which caused expenditures beyond the \$120,000 threshold in 2009 and 2010:

1. For Cypress to attain discharge compliance it was necessary to find qualified individuals with expertise in operating this tertiary treatment plant as prior contractors: 1) did not spend adequate time at the plant to keep it compliant and 2) deferred equipment maintenance and repair. The employee team that Cypress used in 2009 and 2010 spent the time necessary to bring the plant to compliance.
2. Cypress dismissed the contractor, who was operating the utility out of compliance with the RWQCB's Waste Discharge Requirements.
3. Cypress found a supervisor and staff that modified operation of the plant to bring it into compliance with RWQCB requirements. This work required overtime hours.
4. The RWQCB required Cypress to deliver samples to a laboratory for tests every day – including weekends – whereas other plants only do this once a week; compliance with this rule required significant labor time.

Appendix C contains month-by-month details of Cypress's expenditures for 2009 and 2010 labor. In 2009 Cypress had one supervisor for 12 months, one full-time employee for 5 months and one part-time employee for 9 months. In 2010 Cypress had one full-time supervisor for 5 months replaced by two part-time supervisors for 7 months, and one full-time employee and one part-time employee for 12 months. Division used these expenditures to calculate excess labor hours. Division finds that only the Supervisor's salary for 2009 was excessive by \$53,000 according to its analysis of comparable salaries. The survey shown in Appendix B was used to consider reasonableness. Per the survey, \$80,000 was determined to be the base salary for supervisors of sewer plants and benefits of 33% were considered the norm. Therefore, Division finds a supervisor's pay of \$106,000 per year (\$80,000 base + \$26,000 benefits = \$106,000) to be reasonable. For 2010, the combined Supervisor's salaries were within the \$106,000 average.

Division reviewed the remaining staff labor hours expended for 2009 and 2010 shown in Appendix C and finds them to be reasonable. Division has considered the excesses of labor expenditures over \$120,000 for all of 2009 and 2010.

In order to determine the recovery of the excess costs, Division applied the four factors for utility recovery of costs recorded in a memorandum account: (a) the costs are not covered by other authorized rates; (b) it is appropriate for ratepayers to pay for these categories of costs in addition to otherwise authorized rates; (c) the utility acted prudently when it incurred these costs; and (d) the level of booked costs is reasonable.<sup>4</sup> Cypress has met these factors as follows:

With respect to factor (a), Cypress has not recovered these excess labor costs through any other rate mechanism, and Cypress has incurred these costs before its next GRC.

With respect to factors (b) and (c), it is appropriate that ratepayers bear these costs as Cypress acted prudently. As noted in Res. W-4795, the contractor providing services to Cypress to operate the plant could not bring the plant into compliance with RWQCB requirements. Consequently, in order to meet RWQCB requirements, Cypress dismissed the contractor and used its own employees. This change resulted in greater labor costs. However, by having Cypress' employees operate the plant, the RWQCB Cleanup and Abatement Order was rescinded on May 19, 2011. Thus, the utility acted prudently in incurring these costs, and it is appropriate that ratepayers bear the costs necessary for RWQCB compliance.

With respect to factor (d), the sewerage plant manager labor costs were compared to similar sewerage utilities in California which were representative of the job marketplace (Appendix B). The Division finds that supervision expenses of \$80,000, with additional benefits of 33%, or \$26,000 are reasonable. Division finds a supervisor pay of \$106,000 per year (\$80,000 base + \$26,000 benefits = \$106,000) appropriate to apply to Cypress because the Cypress supervisor's salary was not inclusive of benefits.

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<sup>4</sup> See Res. W-4824, OP 5.



After normalization to the comparable sewerage supervisor compensation, Division has calculated allowed overages to be \$37,972 for 2009 and \$81,957 for 2010. The compensation for all other non-supervisory employees is considered normal. The total authorized overage for 2009 and 2010 is \$119,749. This is calculated in Appendix C.

Cypress should be required to file for a GRC with a 2013 test year by June 30, 2013, since it has reached a new level of normal operations. Otherwise, Cypress would be continually requesting surcharges.

In setting rates for this resolution, we have balanced the financial requirements of Cypress with the rate concerns of its customers. Division calculated the allowable excess labor shown in Appendix C and recommends a surcharge of \$8.87 per month or 9.0% over 36 months. The Division calculates that the reasonable total overage of \$119,749 amounts to \$3,326 per month for 36 months which is \$8.87 for each of 375 customers.

#### **Cypress Ridge Owners' Association (CROA) Protests**

CROA's comments from their protest letters and Division's replies are as follows:

- a) CROA claims that Cypress has not substantiated the increased costs.

The Division finds that the increased costs were substantiated. As discussed above, the increased labor costs resulted because Cypress needed to use in house labor to make its plant compliant with the RWQCB order.

Furthermore, CROA provided a review by an independent contractor Fluid Resource Management (FRM) indicating that labor costs were estimated in the range of \$150,000 to \$192,000 (after return to normalcy). FRM's estimate for labor costs before achievement of normalcy was in the range of \$228,000 to \$324,000. Cypress employee labor costs were within the range before achievement of normalcy estimated by CROA's own consultant.

- b) CROA claims that past submittals indicate only a supervising operator and a junior employee, while this AL indicates employment of a supervising operator and two junior employees.

An explanation of actions to taken return the plant to normal operation is provided within the section Analysis of Cypress Labor Costs. Reasonable operating steps were taken to return the plant to normalcy.

- c) CROA claims that the pay level for the supervising operator far exceeds the marketplace.

The Division considered this issue and made a separate analysis as shown in Appendix B which compares wages for supervisors at other California sewerage plants. Division made adjustments to the Cypress supervisor's pay in Appendix C consistent with comparable supervisor wages at other California sewerage plants as described in Appendix B.

- d) CROA recommends that compliance with General Order (GO) 103-A regarding submission of Operation and Maintenance (O&M) plans should be earlier than the next GRC.

Division recommends that GO 103-A O&M compliance conditions be reviewed in the next GRC. As discussed above, the Division recommends that Cypress file for a GRC by June 30, 2013. Res. W-4795 ordered that these plans be submitted in the next GRC.

- e) CROA claims that Cypress should not be permitted to collect interest on the basis that Rural Water Company – which has the same owner as Cypress – was not required to pay interest on surcredits.

When the Commission passed Res. W-4794 it did not include interest from Rural on their surcredit as a result of a negotiated agreement. That agreement is not precedential and not grounds to disallow recovery of interest in this instance.

- f) CROA argues that the surcharge percentage level is over 10% of gross revenues, and that Paragraph 56b of SP 27-W requires this to be collected over three years.

Division concurs and has recommended that recovery of the surcharge be collected accordingly.

## **COMPLIANCE**

Service by Cypress is now satisfactory. There are no Commission orders requiring system improvements, nor are there any service problems requiring corrective actions. The utility has been filing annual reports as required.

## **COMMENTS**

Public Utilities Code Section 311 (g) (1) generally requires that resolutions must be served on all parties and subject to at least 30 days public review and comment prior to a vote of the Commission. Accordingly, this draft resolution was mailed to the utility and the protestants and was made available for public comment on March 11, 2013.

## **FINDINGS:**

1. Cypress Ridge Sewer Company (Cypress') last general rate case (GRC), Res. W-4795, issued on November 20, 2009, authorized Cypress to establish a memorandum account for labor costs over \$120,000 per year.
2. Cypress failed to properly request a separate labor memorandum account authorized in Res. W-4795.
3. Lake Forest Res. W-4815 established the precedent that small utilities may recover authorized costs even though they failed to establish the proper memorandum account in which to record the costs.
4. This request by Cypress is similar to the Lake Forest Res. W-4815 for the following reasons:
  - a. Cypress is a small, regulated sewer utility.

- b. Small companies such as Cypress are often not sophisticated in complying with regulatory procedures.
  - c. Cypress was authorized to create a memorandum account to cover a limited class of expenses.
  - d. Cypress failed to ask for permission to create the special memorandum account.
  - e. Cypress incurred necessary expenses properly included in the kind of memorandum account that was authorized in Res. 4795.
  - f. The expenses at issue are large in relation to Cypress' overall revenue requirement.
5. Consistent with the reasoning in Res. W-4815, it is appropriate here for Cypress to recover reasonable labor overage expenses even though the utility failed to properly request a separate labor memorandum account authorized in Res. W-4795.
6. Cypress should be allowed to recover excess labor cost incurred for 2009 and 2010.
7. Cypress' recovery does not constitute impermissible retroactive ratemaking.
8. Excess Labor expenses could only be collected after the Cleanup and Abatement Order No. R3-2008-0022 issued by the Regional Water Quality Control Board (RWQCB) was rescinded. The RWQCB rescinded this order on May 19, 2011.
9. Cypress subsequently filed AL 16-SS on August 9, 2011, to request collection of excess labor costs in rates and a supplement AL 16-SS-A on September 15, 2011, which revised the collection to be a surcharge.
10. The rates recommended by the Division (Appendix A) are reasonable and should be adopted.
11. Compliance with General Order 103-A regarding submission of Operation and Maintenance (O&M) Plans should be required in the next GRC.
12. Cypress Ridge Owners' Association (CROA) protested AL-16-SS and AL-16-SS-A. All pertinent questions posed by protestants have been considered.

13. CROA's protests should be denied for the reasons stated in the body of this resolution.
14. Four factors need to be demonstrated to recover costs authorized to be tracked in a memorandum account: (a) the costs are not covered by other authorized rates; (b) it is appropriate for ratepayers to pay for these categories of costs in addition to otherwise authorized rates; (c) the utility acted prudently when it incurred these costs; and (d) the level of booked costs is reasonable. In AL 16-SS and AL 16-SS-A, Cypress has demonstrated compliance with these four factors.
15. In order that requests of excess labor cost do not continue indefinitely, Cypress should be directed to file a GRC by June 30, 2013.
16. An increase of \$119,749 plus interest at the 90-day commercial paper rate is reasonable to be collected via a surcharge of \$8.87 per month from each customer over a 36-month period.
17. An increase of \$119,749 plus interest at the 90-day commercial paper rate is reasonable to be collected via a surcharge of \$8.87 per month from each customer over a 36-month period.

**THEREFORE IT IS ORDERED THAT:**

1. Cypress Ridge Sewer Company is authorized to transfer \$119,749 to a balancing account for recovery.
2. For a period of 36 months beginning February 1, 2013, Cypress Ridge Sewer Company is authorized to include a monthly surcharge of \$8.87 on all customers.
3. Cypress Ridge Sewer Company is authorized to collect interest based on the 3-month Commercial Paper Rate, as reported in the Federal Reserve Statistical Release on the uncollected amounts in their excess labor memorandum account.
4. Cypress Ridge Sewer Company is authorized to file a supplement to Advice Letter No. 16-SS-A to make effective the revised Schedules Nos. 1, Residential Flat Rate Sewer Service, and 2, Commercial Flat Rate Sewer Service, attached to this resolution, and to concurrently cancel its presently effective rate schedules. The effective date of the revised rate schedules shall be five days after receipt of the supplement to Advice Letter No. 16-SS-A.

5. Cypress Ridge Sewer shall submit a request for a general rate case by June 30, 2013. The next general rate case shall include Operation and Maintenance Plans per GO-103-A requirements.
6. The protest of the Cypress Ridge Owner's Association is denied.
7. This resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed, and adopted at a conference of the Public Utilities Commission of the State of California held on April 18, 2013; the following Commissioners voting favorably thereon:

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PAUL CLANON  
Executive Director

**APPENDIX A**

**CYPRESS RIDGE SEWER COMPANY**

Schedule No. 1  
Sheet 1

**RESIDENTIAL FLAT RATE SEWER SERVICE**

**APPLICABILITY**

Applicable to all residential sewer service.

**TERRITORY**

Cypress Ridge, within Tract # 1933, including Golf Course Complex, San Luis Obispo County.

**RATES**

Per Connection  
Per Month

For all residential sewer service..... \$103.30

**SPECIAL CONDITIONS**

1. All sewer service is subject to a monthly surcharge of \$3.77 for a period of 36 months beginning December 1, 2009.
2. For a period of 36 months beginning February 1, 2013, all sewer service will have a monthly surcharge of \$8.87, subject to interest at the 90-day commercial paper rate on the unpaid balance in the excess labor memorandum account. (N)
3. All bills include the reimbursement fee set forth in Schedule No. UF. (L)

**APPENDIX A**  
**CYPRESS RIDGE SEWER COMPANY**

Schedule No. 2  
Sheet 2

**COMMERCIAL FLAT RATE SEWER SERVICE**

**APPLICABILITY**

Applicable to all commercial sewer service.

**TERRITORY**

Cypress Ridge, within Tract # 1933, including Golf Course Complex, San Luis Obispo County.

**RATES**

	<u>Per Connection</u> <u>Per Month</u>
For Golf Pro Shop.....	\$103.30
For Golf Maintenance Facility.....	\$103.30
For Commercial/Office Facility...	\$103.30
For Pavilion..... ..	\$103.30

(D)

**SPECIAL CONDITIONS**

1. A late charge will be imposed per Schedule No. LC.
2. Bills will be rendered in advance of the period for which service will be provided.
3. All sewer service is subject to a monthly surcharge of \$3.77 for a period of 36 months beginning December 1, 2009.
4. For a period of 36 months beginning February 1, 2013, all sewer service will have a monthly surcharge of \$8.87, subject to interest at the 90-day commercial paper rate on the unpaid balance in the excess labor memorandum account. (N)
5. All bills include the reimbursement fee set forth in Schedule No. UF. (L)

**(END OF APPENDIX A)**



**APPENDIX B**  
**CYPRESS RIDGE SEWER COMPANY**

**SEWER PLANT MANAGER SALARY SURVEY**

<u>Source</u>	<u>Sewer Mgr Salary</u>	<u>Detail</u>	<u>Benefits</u>
City of Riverside, CA	\$70,770	Per job advertisement Yr 2011	About 33%
City of Tulare, CA	\$80,000	Per job advertisement Yr 2011	Not stated
City of Montecito, CA	\$74,485	Per job advertisement Yr 2011	About 33%
Elsinore Valley, CA	\$78,612	Avg per ACWA survey Yr 2008	About 33%
Big Bear, CA	\$80,562	Avg per ACWA survey Yr 2008	About 33%

**(END OF APPENDIX B)**

**APPENDIX C**

**Cypress Ridge Sewer Employee Labor**

2009	Part-Time	Full Time	Supervisor	Total		
Jan	\$ 4,282		\$ 16,262			
Feb	\$ 2,939		\$ 12,030			
Mar	\$ 2,736		\$ 11,933			
Apr	\$ 2,709		\$ 11,981			
May	\$ 2,834		\$ 12,660			
Jun	\$ 2,814		\$ 13,241			
Jul	\$ 4,550		\$ 6,717			
Aug	\$ 2,234		\$ 15,704			
Sep		\$ 4,925	\$ 15,704			
Oct		\$ 5,127	\$ 13,087			
Nov 1-20		\$ 3,324	\$ 8,217			
Nov 21+	\$ 2,687	\$ 1,662	\$ 4,109			
Dec	\$ 2,821	\$ 6,150	\$ 8,106			
Totals	\$ 30,605	\$ 21,187	\$ 149,752	\$ 201,544		
Allowable Supervisor cost			\$ 106,000			
Less: Excess Supervisor costs for all 2009				\$ 43,752		
Allowable overage for 2009				\$ 157,792		
Authorized baseline				-\$120,000		
2009 Excess				\$ 37,792		
2010	Part-Time	Full Time	Supervisor	Part-Time Supervisor	Part-Time Supervisor	Total
Jan	\$ 2,894	\$ 5,532	\$ 12,893			
Feb	\$ 3,044	\$ 6,263	\$ 12,401			
Mar	\$ 2,550	\$ 5,113	\$ 12,499			
Apr	\$ 3,044	\$ 5,335	\$ 13,145			
May	\$ 2,810	\$ 5,066	\$ 12,929			
Jun	\$ 2,854	\$ 5,443		\$ 3,579	\$ 2,013	
Jul	\$ 2,894	\$ 5,342		\$ 3,579	\$ 2,013	
Aug	\$ 3,100	\$ 4,764		\$ 3,470	\$ 2,013	
Sep	\$ 3,116	\$ 5,369		\$ 3,445	\$ 2,005	
Oct	\$ 3,121	\$ 5,026		\$ 3,445	\$ 1,938	
Nov	\$ 2,919	\$ 5,187		\$ 3,445	\$ 1,938	
Dec	\$ 3,479	\$ 5,560		\$ 3,445	\$ 1,938	
Totals	\$ 35,824	\$ 64,001	\$ 63,867	\$ 24,408	\$ 13,858	\$ 201,957
Total Supervisor cost for 2010			\$ 102,133			
Allowable Supervisor cost			\$ 106,000			
Less: Excess Supervisor costs for 2010						\$0
Allowable overage for 2010						\$ 201,957
Authorized baseline						-\$120,000
2010 Excess						\$ 81,957
2009 Excess						\$ 37,792
Total overage (2009 + 2010)						\$ 119,749

**(END OF APPENDIX C)**

**APPENDIX D**  
**CLEAN UP AND ABATEMENT ORDER**

STATE OF CALIFORNIA  
REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL COAST REGION  
895 Aerovista Place, Suite 101  
San Luis Obispo, CA 93401

CLEANUP AND ABATEMENT ORDER NO. R3-2008-0022  
January 24, 2008

For RURAL WATER COMPANY  
CYPRESS RIDGE WASTEWATER FACILITY  
SAN LUIS OBISPO COUNTY

The California Regional Water Quality Control Board, Central Coast Region (hereafter Water Board), finds:

1. Discharger. Rural Water Company, Incorporated, 755 Cypress Ridge Parkway, Arroyo Grande, California 93420 (hereafter Discharger) owns and operates the Cypress Ridge Wastewater Facility (hereafter Facility), located within the Cypress Ridge Development in Arroyo Grande, San Luis Obispo County.

2. Facility. The Facility provides wastewater treatment, reuse and disposal service for the Cypress Ridge Development, which encompasses 386 acres and contains 386 clustered residential units, golf course, community center, post office and recreational facilities. The Facility is located on the Nipomo Mesa, southwest of the City of Arroyo Grande.

3. Waste Discharge Requirements. Wastewater generated within the Cypress Ridge Development is treated at the Facility and reused for golf course irrigation on the Cypress Ridge Golf Course. The Discharger is Subject to Waste Discharge Requirements Order No. 97-66 (hereafter WDR Order), issued by the Central Coast Water Board on December 5, 1997. The WDR Order includes, in part, the following requirements:

"RECLAMATION SPECIFICATIONS"

"2. Reclaimed water discharged to irrigation reclamation areas shall at all times be adequately oxidized, coagulated, clarified, filtered, disinfected and shall not exceed the following limitations:

Parameter	Units	Mean	Maximum
BOD	mg/L	10	30
Suspended Solids	mg/L	10	30
Settleable Solids	mg/L	0.1	0.3
Turbidity	NTU	2	5

"Turbidity must not exceed 5 NTU more than 5% of the time and must not exceed 10 NTU."

"3. The median number of coliform organisms in reclaimed water shall not exceed 2.2.MPN per 100 ml, as determined from the bacteriological results of the last 7 days for which analyses have been completed, and the number of coliform organisms shall not exceed 230 MPN per 100 ml in any single sample."

"4. If chlorine is used as disinfectant, free chlorine residual in reclaimed water shall equal or exceed 0.5 mg/L, as measured immediately after the chlorine contact zone, chlorine contact time shall exceed 90 minutes, and chlorine contact time multiplied by the residual (CT) shall equal at least 450"

"PROVISIONS"

"2. The Discharger shall comply with all items of the attached "Standard Provisions and Reporting Requirements for Waste Discharge Requirements" dated January 1984 and included as part of this Order."

"STANDARD PROVISIONS AND REPORTING REQUIREMENTS"

"A 21. The discharger shall take all reasonable steps to minimize or correct adverse impacts on the environment resulting from noncompliance with this order."

"B. 6. All monitoring instruments and devices used by the discharger to fulfill the prescribed monitoring program shall be properly maintained and calibrated as necessary to ensure their continued accuracy."

"C. 3. Any noncompliance that may endanger health or the environment shall be reported orally within 24 hours from the time the discharger becomes aware of the circumstances (telephone 805-549~3147). Unless waived by the Executive Officer of the Regional Board, a written report shall be submitted within five (5) days of awareness and shall contain a description of the noncompliance and its cause; the period of noncompliance (including exact dates and times) or anticipated duration; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance. This provision includes, but is not limited to:

- a. violation of a discharge prohibition;
- b. any "upset", "overflow", or "bypass";
- c. violation of a discharge limitation for any "hazardous substance."

"C. 4. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule shall be submitted within 14 days following each scheduled date unless otherwise specified within the order. If reporting noncompliance, the report shall include a description of the reason, a description and schedule of tress necessary to achieve compliance, and an estimated date for achieving full compliance. A second report shall be submitted within 14 days of full compliance."

"C. 5. All instances of noncompliance not reported under paragraph numbers C.3. and CA., above, shall be submitted along with monitoring reports. The reports shall contain the information listed in paragraph C.3."

4. Violations. State and Central Coast Water Boards' staff inspected the Facility on October 25, 2007, and found multiple violations of the provisions listed above. A detailed summary of the inspection finding is included as Attachment 1 to this Order. During the inspection, Water Board staff found essential treatment and monitoring units to be nonfunctional, operations staff to be unaware of monitoring representativeness, and disinfection processes to be poorly controlled, operations staff had recently resigned, and no reliable long-term operations plan was in place. In addition to violations observed during the recent inspection, self-monitoring reports submitted by the Discharger document ongoing effluent and reporting violations. Effluent and monitoring violations are summarized in notices of violations (Attachments 2, 3, 4 and 5 to this Order), in addition to the following Violations reported after issuance of the June 12, 2006 notice of violation.

October 2007	Daily average turbidity violations; minimum chlorine violation; maximum coliform bacteria violation.
September 2007	Daily average, 5% of the time, and maximum turbidity violations; minimum chlorine residual violation.
August 2007	Daily average, 5% of the time, and maximum turbidity violations; minimum chlorine residual violations; maximum coliform bacteria violations.
July 2007	Minimum chlorine residual violation; maximum coliform. bacteria; violation.
March 2007	Daily average turbidity violations; incomplete monitoring report
January 2007	Daily average turbidity violation.
December 2006	Maximum coliform bacteria violation; daily average, 5% of the time, and maximum turbidity violations; minimum chlorine residual violation.
November 2006	. Daily average turbidity violation.

October 2006	Daily average, 5% of the time, and maximum turbidity violations; daily maximum settleable solids violations; monthly average and daily maximum suspended solids violations; incomplete monitoring report.
September 2006	Daily average, 5% of the time, and maximum turbidity violations; maximum coliform bacteria violation; monthly average suspended solids violation; incomplete monitoring report.
August 2006	Daily average, and 5% of the time turbidity violations; maximum coliform bacteria Violation; daily maximum settleable solids violation; incomplete monitoring report,
July 2006	Daily average, 5% of the time, and maximum turbidity violations; incomplete monitoring report.
June 2006	Daily average, 5% of the time, and maximum turbidity violations; maximum coliform bacteria Violation; monthly average and dally maximum BOD violations; monthly average suspended solids violation: incomplete monitoring report,
May 2006	Daily average, 5% of the time, and maximum monthly average and daily maximum minimum Chlorine residual violations; median and violations; incomplete monitoring report. turbidity violations; BOD violations; maximum coliform

5. Monitoring. This Order includes monitoring and reporting requirements pursuant to Water Code Section 13267. The Water Board needs the required information to assess compliance with this Order and to ensure that effluent violations are minimized to the extent possible. The Discharger is required to provide this information because the Discharger is the owner and/or operator of the Facility The burden of any monitoring or reporting required by this Order is reasonable in light of the pollution and threat to public health that has resulted from operation of the Facility and the long history of violations at the Facility.

6. Permitting. Alternatives proposed to comply with this Order may be subject to permitting requirements (e.g., from San Luis Obispo County), including the requirement to obtain waste discharge requirements. Nothing in this Order relieves the Discharger of the obligation to obtain any necessary permit or waste discharge requirements.

7. Section 13304(a) of the California Water Code provides that:

*"Any person who has discharged or discharges waste into waters of the state in violation of any waste discharge requirements or other order or prohibition issued by a regional board or the state board, or who has caused or permitted, causes or permits, or threatens to cause or permit any waste to be discharged or deposited where it is, or probably will be, discharged into the waters of the state and creates, or threatens to create, a condition of pollution or nuisance, shall upon order of the regional board clean up the waste or abate the effects of the waste, or, in the case of threatened pollution or nuisance, take other necessary remedial action, including but not limited to, overseeing cleanup and abatement efforts. A cleanup and abatement order issued by the state board or a regional board may require the provision of, or payment for, uninterrupted replacement water services, which may include wellhead treatment, to each affected public water supplier or private well owner. Upon failure of any person to comply with the cleanup or abatement order, the Attorney General, at the request of the regional board, shall petition the superior court for that county for the issuance of an injunction requiring the person to comply with the order. In the suit, the court shall have jurisdiction to grant a prohibitory or mandatory injunction, either preliminary or permanent, as the facts may warrant."*

8. Section 13267(b)(1) of the California Water Code provides that:

*"In conducting an investigation specified in subdivision (a), the regional board may require that any person who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste within its region, or any citizen or domiciliary, or political agency or entity of this state who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge, waste outside of its region that could affect the quality of waters within its region shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires. The burden, including costs, of*

*these reports shall bear a reasonable relationship to the need for the report and the benefits to be obtained from the reports. In requiring those reports, the regional board shall provide the person with a written explanation with regard to the need for the reports, and shall identify the evidence that supports requiring that person to provide the reports.*

9. Section 13304(c)(1) of the California Water Code provides that:

*" . . . the person or persons who discharged the waste, discharges the waste, or threatened to cause or permit the discharge of the waste within the meaning of Subdivision (a), are liable to that government agency to the extent of the reasonable costs actually incurred in cleaning up the waste, abating the effects of the waste, supervising cleanup or abatement activities, or taking other remedial actions.*

The Discharger is subject to an Order pursuant to Water Code section 13304 because as described in the above findings, the Discharger discharged waste in violation of waste discharge requirements.

10. CEEQA. This enforcement action is being taken for the protection of natural resources and the environment and as such is exempt from the provisions of the California Environmental Quality Act ("CEQA"). (Sections 15307, 15308, and 15321, Title 14, California Code of Regulations). In addition, the Facility is an existing facility and this Order allows no expansion of use beyond that previously existing so this enforcement action is exempt from the provisions of CEQA (Section 15301. Title 14, California Code of Regulations).

11. Any person affected by this action of the Water Board may petition the State Water Resources Control Board (State Board) to review the action in accordance with Section 13320 of the California Water Code and Title 23, California Code of Regulations, Section 2050. The petition must be received by the State Board, Office of Chief Counsel, P.O. Box 100, Sacramento, 95812 within 30 days of the date of this CAO. Copies of the law and regulations applicable to filing petitions will be provided upon request.

IT IS HEREBY ORDERED THAT, pursuant to California Water Code Sections 13267 and 13304, the Discharger shall comply with the following requirements:

#### A. WASTEWATER SYSTEM COMPLIANCE PLAN

The Discharger shall develop and implement a facility-Wide compliance plan. The plan shall include detailed description of actions to attain and maintain consistent compliance with requirements, implementation schedule, staffing and operational expertise. measures to ensure continued compliance, and discharge alternatives in case of noncompliance. The compliance plan and construction plans and specifications shall be prepared by a registered engineer competent in wastewater engineering and shall be completed according to the following schedule.

1. Discharger shall submit a detailed compliance plan by March 28, 2008.
2. Discharger shall complete detailed construction plans and specifications (for any facility improvements needed to maintain compliance) and submit them to the Central Coast Water Board in the form a report of waste discharge by May 28, 2008. .
3. Discharger shall complete any necessary facility physical upgrades by November 28, 2008.
4. Discharger shall submit written progress reports with regular monthly monitoring reports until completion of all components of the compliance plan. .

#### B. PROVISIONS

1. All reports, receipts, notifications and other documents the Discharger submits pursuant to this Order shall be accompanied by a statement from the Discharger stating: "I certify under penalty of perjury that the attached documents were prepared at my request or under my supervision; and to the best of my knowledge are true, accurate and complete. I understand that there are significant penalties for providing false or incomplete information, including the possibility of criminal fines or imprisonment."

2. The Discharger shall submit copies of all documents and monthly monitoring reports required by this Order to San Luis Obispo County Health Department and California Public Health Department at the same time the Discharger provides copies to the Water Board.

3. Discharger shall inform any Subsequent owner of the Facility of this Order and provide a copy of the Order.

4. The Discharger shall notify the Central Coast Water Board Executive Officer in writing of any transfer of ownership of the Facility within 30 calendar days following close of escrow or transfer of record title after transfer of ownership. Note that Standard Provision also requires notification of pending transfer of ownership or control at least 30 days in advance of transfer (Standard Provision C.11.)

FAILURE TO COMPLY WITH PROVISIONS OF THIS ORDER MAY SUBJECT THE DISCHARGER TO ENFORCEMENT ACTION, INCLUDING ASSESSMENT OF CIVIL LIABILITY UNDER SECTIONS 13268, 13350, OR 13385 OF THE WATER CODE AND REFERRAL TO THE ATTORNEY GENERAL FOR INJUNCTIVE RELIEF AND CIVIL OR CRIMINAL LIABILITY.

**CERTIFICATE OF SERVICE**

I certify that I have by mail this day served a true copy of Draft Resolution W- \_\_\_\_ on all parties in this filing or their attorneys as shown on the attached list.

Dated March 11, 2013, at San Francisco, California.

\_\_\_\_\_  
/s/ DARLENE SUSTAITA

Darlene Sustaita

**NOTICE**

Parties should notify the Division of Water and Audits, Third Floor, California Public Utilities Commission, 505 Van Ness Avenue, San Francisco, CA 94102, of any change of address to ensure that they continue to receive documents. You must indicate the Resolution number on which your name appears.



**SERVICE LIST**  
**DRAFT RESOLUTION W-\_\_\_\_\_**

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